



# CITY OF LODI COUNCIL COMMUNICATION

AGENDA TITLE: Adopt Resolution Approving Operation and Maintenance Agreement for Water Main Abandonment at **104** East Turner Road

MEETING DATE: March **16, 2005**

PREPARED BY: Public Works Director

RECOMMENDED ACTION: That the City Council adopt a resolution approving the Operation and Maintenance Agreement for Water Main Abandonment at **104** East Turner Road and authorizing the City Manager and City Clerk to execute the agreement on behalf of the City.

BACKGROUND INFORMATION: Developer B. C. Properties, LLC, has applied for a building permit to legalize a warehouse addition at **104** East Turner Road (Epic Plastics). The building was constructed directly above a section of the public water main along the west property line of the subject parcel. Investigation by City staff discovered that additional structures had been constructed above the public water main without the required building permits for such construction.

Developer has requested that a structural encroachment permit be issued for the encroaching structures. The proposed and existing structures will impair the City's ability to maintain and repair the public water main. Staff considered having the developer either relocate the public water main at the developer's expense or remove the encroaching structures that were constructed without the proper building permits. Both options are very expensive to implement, and as a result, staff investigated the possibility of vacating a portion of the public water main. Staff determined that vacating the public main will not impact the water service in the surrounding area because of the water system redundancy in the area (Exhibit A).

Based on City records, we believe the water main was installed in the late **1940s**, and there is no recorded easement for the water main. A water main typically has an economic life of about 50 years. This main's depreciated value is essentially zero. There is no economic **loss** to the City for the abandonment because this section of the water main is a redundant segment in our water system in the area. (The City installed a new parallel main in Stockton Street in **1991**.) By abandoning this section of the water main, the City would save on future maintenance costs or replacement costs. It also removes the City from liability from any undocumented connections to this section of the water main.

The owner has installed reduced pressure backflow prevention devices on the water main, at a cost in excess of \$10,000. The owner was also required to pay the "Building Investigation Fee" (\$377.50) for the un-permitted work when applying for the make-up building permit.

The developer agrees to the option of vacating that portion of the public water main under the terms of the Operation and Maintenance Agreement for Water Main Abandonment at **104** East Turner Road (Exhibit B). As part of the agreement, the developer agrees to install backflow prevention devices to protect the public water system, maintain the vacated water main, abandon all existing domestic service from the vacated

APPROVED:   
Blair King, City Manager

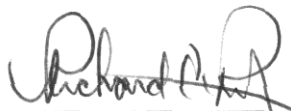
water main, and indemnify the City from liability arising from the use of the vacated water main. The vacated water main can only be used by the developer for on-site fire protection.

The approval of the water main abandonment is one of the conditions of the building permit approval. The developer needs to obtain approval from other departments and agencies prior to the building permit issuance and/or final inspection of the proposed project.

B. C. Properties, LLC, has executed the agreement and paid all necessary recording fees. Staff is *recommending* the Council adopt a resolution approving the Operation and Maintenance Agreement and authorizing the City Manager and City Clerk to execute the agreement.

**FISCAL IMPACT:** None.

**FUNDING AVAILABLE:** Not applicable.



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Richard C. Prima, Jr.  
Public Works Director

Prepared by Lyman Chang, Associate Civil Engineer

RCP/LC/pmf

**Attachments**

cc: City Attorney  
Associate Civil Engineer Chang  
Assistant Water/Wastewater Superintendent  
B.C. Properties, LLC



# CITY OF LODI

PUBLIC WORKS DEPARTMENT

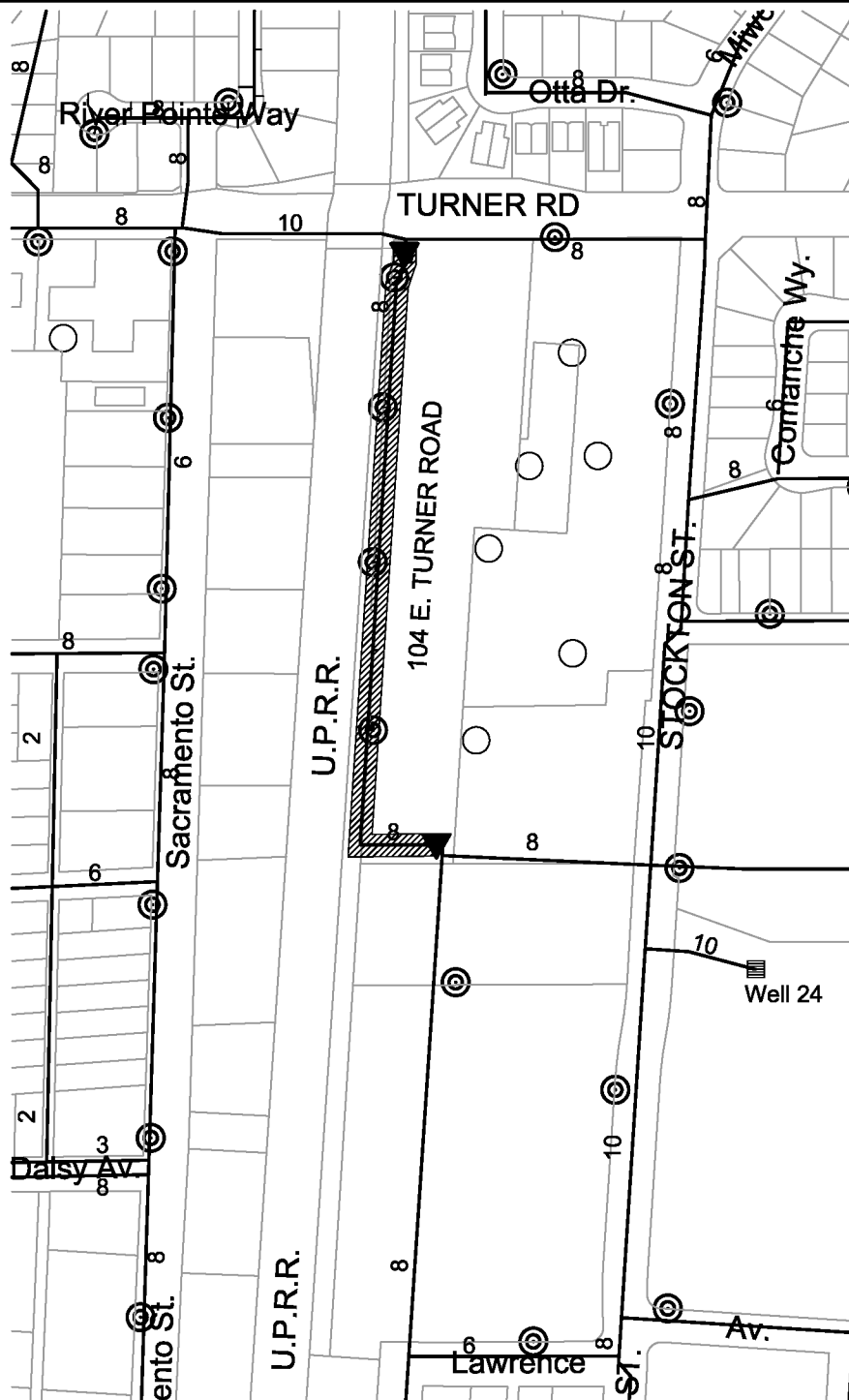
## EXHIBIT A

### WATER MAIN ABANDONMENT

#### 104 E. TURNER ROAD



N.T.S.



WATER MAIN TO BE ABANDONED BY CITY



PUBLIC FIRE HYDRANTS



PRIVATE FIRE HYDRANTS



PROPOSED BACKFLOW DEVICE

WHEN RECORDED, RETURN TO:

City Clerk  
City of Lodi  
221 West Pine Street  
Lodi, CA 95240

OPERATION AND MAINTENANCE  
AGREEMENT FOR  
WATER MAIN ABANDONMENT  
FOR  
104 E TURNER ROAD  
APN 041-240-47

THIS AGREEMENT is made and entered into by and between the CITY OF LODI, hereinafter referred to as "City" and B. C. PROPERTIES, LLC., hereinafter referred to as "Owner".

RECITALS:

WHEREAS, Owner has applied for a building permit for a warehouse addition on the subject property; and

WHEREAS, the proposed warehouse addition will be built directly above the existing public water main located along the west property line of the subject property; and

WHEREAS, other miscellaneous existing structures have been built directly above said public water main on the subject property without the required building permits for such construction; and

WHEREAS, the City is unwilling to issue a structural encroachment permit and Hold Harmless Agreement for the encroachment of private structures built over public facilities, but is willing to vacate this section of the public water main and transfer ownership to Owner; and

WHEREAS, as a condition of the vacation of the public water main, owner is required to separate private water facilities from public utilities to the approval of the City's Public Works Director; and

WHEREAS, Owner is required to maintain the vacated public water main as a private facility.

NOW THEREFORE, it is agreed between the parties hereto as follows:

1. City shall vacate and transfer ownership of that certain public water main along the west and south boundaries of the parcel located at 104 E. Turner Road as shown on Exhibit A to Owner.
2. Owner agrees to install and maintain the necessary backflow prevention devices to separate the private water main from the public water system. The backflow prevention devices are to be installed to the satisfaction of the City's Public Works Director.
3. Owner shall accept the vacated water main as-is and shall maintain said water main in good working condition.
4. All fire hydrants and valves served by the vacated water main shall become private and shall be maintained by Owner.

5. Owner agrees that no domestic water services shall be provided from the private water main. All existing domestic water services connected to the private water main shall be abandoned at Owner's expense.
6. Owner shall obtain all necessary permits to allow completion of Owner's responsibilities under the terms of this agreement.
7. Owner agrees to save, defend, indemnify and hold harmless the City of Lodi, its' officers, agents and employees, from liability of any nature whatsoever arising from Owner's use of the private water main referenced above.
8. This agreement shall run with the land and be binding on the Owner, its heirs, successors or assigns.
9. A copy of the Agreement shall be recorded in the office of the San Joaquin County Recorder, P. O. Box 1968, Stockton, California 95201-1968.

IN WITNESS WHEREOF, the parties hereto have set their hands the day, month and year appearing opposite their names.

CITY OF LODI, a Municipal Corporation

Dated: \_\_\_\_\_ 2004

By: \_\_\_\_\_  
Janet S. Keeter, Interim City Manager

Attest: \_\_\_\_\_  
Susan J. Blackston, City Clerk

B. C. Properties, LLC.

Dated: FEB 8<sup>th</sup> ~~2004~~  
2005

Brent Bobuz

Approved as to form: \_\_\_\_\_  
D. Stephen Schwabauer  
City Attorney

Dated: \_\_\_\_\_ 2004 \_\_\_\_\_

RESOLUTION NO. 2005-54

A RESOLUTION OF THE LODI CITY COUNCIL APPROVING  
OPERATION AND MAINTENANCE AGREEMENT FOR WATER MAIN  
ABANDONMENT AT 104 EAST TURNER ROAD, AND FURTHER  
AUTHORIZING THE CITY MANAGER TO EXECUTE THE AGREEMENT  
ON BEHALF OF THE CITY OF LODI

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NOW, THEREFORE, BE IT RESOLVED that the Lodi City Council does hereby approve the Operation and Maintenance Agreement for water main abandonment at 104 East Turner Road between the City of Lodi and B. C. Properties, LLC; and

BE IT FURTHER RESOLVED that the City Council hereby authorizes the City Manager to execute the Operation and Maintenance Agreement on behalf of the City of Lodi.

Dated: March 16, 2005

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I hereby certify that Resolution No. 2005-54 was passed and adopted by the Lodi City Council in a regular meeting held March 16, 2005, by the following vote:

AYES: COUNCIL MEMBERS – Hitchcock, Johnson, Mounce, and  
Mayor Beckman

NOES: COUNCIL MEMBERS – None

ABSENT COUNCIL MEMBERS – Hansen

ABSTAIN: COUNCIL MEMBERS – None



SUSAN J. BLACKSTON  
City Clerk

CITY COUNCIL

JOHN BECKMAN, Mayor  
SUSAN HITCHCOCK  
Mayor Pro Tempore  
LARRY D. HANSEN  
BOB JOHNSON  
JOANNE L. MOUNCE

**CITY OF LODI**  
**PUBLIC WORKS DEPARTMENT**

CITY HALL, 221 WEST PINE STREET  
P.O. BOX 3006  
LODI, CALIFORNIA 95241-1910  
(209) 333-6706  
FAX (209) 333-6710  
EMAIL [pwddept@lodi.gov](mailto:pwddept@lodi.gov)  
<http://www.lodi.gov>

March 10, 2005

BLAIR KING

City Manager

SUSAN J. BLACKSTON

City Clerk

O STEVEN SCHWABAUER

City Attorney

RICHARD C. PRIMA, JR.

Public Works Director

B. C. Properties, LLC  
P.O. Box 2056  
Sebastopol, CA 95473

SUBJECT: Adopt Resolution Approving Operation and Maintenance Agreement for  
Water Main Abandonment at 104 East Turner Road

Enclosed is a copy of background information on an item on the City Council agenda of  
Wednesday, March 16, 2005. The meeting will be held at 7 p.m. in the  
City Council Chamber, Carnegie Forum, 305 West Pine Street.

This item is on the regular calendar for Council discussion. You are welcome to attend.

If you wish to write to the City Council, please address your letter to City Council,  
City of Lodi, P. O. Box 3006, Lodi, California, 95241-1910. Be sure to allow time for the  
mail. Or, you may hand-deliver the letter to City Hall, 221 West Pine Street.

If you wish to address the Council at the Council Meeting, be sure to fill out a speaker's  
card (available at the Carnegie Forum immediately prior to the start of the meeting) and  
give it to the City Clerk. If you have any questions about communicating with the  
Council, please contact Susan Blackston, City Clerk, at (209) 333-6702.

If you have any questions about the item itself, please call Lyman Chang,  
Associate Civil Engineer, at (209) 333-6800, extension 2665.



for: Richard C. Prima, Jr.  
public Works Director

RCP/pmf

Enclosure

cc: City Clerk